THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.23128 OF 2005

DISPOSED OF ON 29.11.2005.

BETWEEN:

D.GOPAL REDDY .. PETITIONER

AND

THE DISTRICT PANCHAYAT OFFICER/

CONVENOR

DISTRICT LAND AUCTION COMMITTEE,

PRAKASAM DISTRICT, ONGOLE AND

ANOTHER .. RESPONDENTS

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O R D E R :

1. This writ petition has been filed by D.Gopal Reddy assailing the proceedings issued by the District Panchayat Officer/ Convenor, District Land Auction Committee,

Prakasam District of Ongole-1st respondent in ROC.No.778/2004/(pts)A4, dated 19.10.2005.

2. The petitioner is a licensee to conduct quarrying operations in sand reach of Ethamukkala, Ethumukkala Gram Panchayath. His area of operations pertain to survey Nos.530/5 to 530/8, 5-1/1, 2,3,4 and 5 and 669/67 to 70 of Ethamukkala village. Vigilance and Enforcement Officer inspected the sand reach on 17.6.2005 and found the petitioner carrying on quarrying operations in unauthorized areas. A report came to be submitted by the Regional Vigilance and Enforcement Officer, Nellore to the 1st respondent for taking necessary action. Thereafter, the order impugned in the writ petition came to be passed.

3. Respondents filed counter affidavit. One V.Nagarjuna Sagar has sworn to the counter affidavit. It is stated in the counter affidavit that the petitioner has been carrying on quarrying operations in unauthorized area and excavating the sand 1 meter depth. I deem it appropriate to extract para 5 of the counter, which reads as under:

> " 5. Again the Vigilance and Enforcement Officers, Divisional Panchayat Officer, Ongole, Mandal Revenue Officer, Revenue Inspector, Mandal Surveyor and the Panchayat Secretary inspected the sand quarry of Ethamukkala dt.17.8.2005. The Vigilance and Enforcement Officers confirmed that the quarry was being done in S.Nos.458 and 457. They have recorded the statements from the Mandal Revenue Officer, Revenue Inspector, Panchayat Secretary. The Vigilance and Enforcement Officers sent a letter dt.17.8.2005 stating that the lessee was excavating the sand beyond 1 mts and in other than the area notified by the committee. It is submitted that the 1st respondent vide Roc.No.778/2004(pts)A4, dt.18.8.2005 informed the Mandal Revenue Officer, Mandal Parishad Development Officer, Panchayat Secretary to stop illegal quarrying and unauthorized transportation of sand and informed that the lessee has to quarry only in permitted survey Nos.530/5,6,7,8,501/1,2,3,4,5 and 669/67 to 70, otherwise action will be taken against the lessee and stop unauthorized quarry in those survey numbers. Where permission not given, and requested to submit a report if any violated by the lessee. This copy was served to the petitioner also."

4. Heard learned counsel for the parties.

5. Learned counsel appearing for the petitioner submits that the statement of the Secretary, Gram Panchayat falsifies the allegations leveled against the petitioner and thus the order impugned in the writ petition cannot be sustained.

6. Learned Government Pleader for Panchayat Raj appearing for the respondents submits that the petitioner has a statutory remedy of an appeal before the Commissioner, Panchayat Raj and Rural Employment. He placed on record G.O.Ms.No.1 Industries and Commerce (MI) Department, dated 1.1.2001.

7. It is no more in dispute that as per the amended Rule 9 of Andhra Pradesh Minor Mineral Concession Rules, 1966, an appeal lies to the Commissioner, Panchayat Raj and Rural Employment against the order passed by the District Panchayat Officer. In that view of the matter, this writ petition is liable to be dismissed as the petitioner has statutory remedy of appeal. Accordingly, this writ petition is dismissed giving liberty to the petitioner to file an appeal before the Commissioner, Panchayat Raj and Rural Employment as per G.O.Ms.No.1 Industries and Commerce (MI) Department, dated 1.1.200. No costs.

Dt: 29-11-2005. (B.Seshasayana Reddy,J)

tnb

cc two days.

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